IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.4890 OF 2005

Ramesh Laxman Dhanwade & Ors. ...Applicants
vs.
The State of Maharashtra ...Respondent

Mr.Kuldeep Patil with Mr.S.P.Borade for the Applicant
Mr.K.V.Saste, A.P.P. for State

CORAM: A.S.OKA,J.
DATE : AUGUST 4,2005

P.C.:

1. Offence registered against the Applicants is under Sections 307, 397 read with Section 34 of the Indian Penal Code. One of the grounds on which the application for bail is rejected by the Sessions Court is that the investigation is in progress.

2. The learned Counsel for the Applicants submitted that the injuries suffered by the complainant are simple nature. He pointed out that from 3rd July 2005 the Applicants are in the custody. He submitted that by no stretch of imagination Section 307 will apply. The learned A.P.P. stated that the investigation is substantially completed and the charge sheet will be filed within fifteen days. He stated that the main accused who is the brother of Applicant Nos.1 and 2 is absconding and therefore till the completion of the investigation the Applicants cannot be enlarged on bail.

3. I have considered the submissions. The statement of the complainant shows that there is some kind of a business rivalry between the complainant and the brother of the Applicant Nos.1 and 2. The allegation of the complainant is that the brother of the Applicant Nos.1 and 2 took away his cell phone and the Applicant No.2 assaulted him from backside by using unidentified weapon made up of iron and two blows were given on the head and two blows were given on his back. The allegation against the other two Applicants is that they gave blows of fists and kicks.

4. The injury certificate issued in favour of the complainant shows that there is one C.L.W. behind the ear. The medical certificate records that there is an incised wound admeasuirng 3 x 1 x 1/2 c.m. on the back. It is thus doubtful whether Section 307 will apply. The investigation has been substantially completed. When applicability of Section 307 is in doubt and the when the Applicants are in custody for last more than one month, a case is made out for enlarging the Applicants on bail. As stated earlier investigation is substantially completed.

5. Hence I pass the following order :

i) The Applicants shall be enlarged on bail in connection with C.R.No.232 of 2005 registered at Samta Nagar Police Station, subject to furnishing a personal bond of Rs.10,000/- (Rupees

ten thousand) each with one or two sureties in the like amount.

ii) The Bail is granted subject to the condition that till the charge sheet is filed the Applicants will attend the concerned Police Station as and when called upon to do so and will cooperate for the purpose of investigation.

iii) The Bail is granted subject to condition that the Applicants shall not, directly or indirectly, make any inducement or threat to any prosecution witnesses and shall not in any manner tamper with prosecution evidence.

iv) The Applicants will cooperate with the learned Trial Judge for expeditious disposal of the trial. Any attempt by the Applicants to delay the trial may be a ground for cancellation of bail.

v) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

vi) Application is disposed of in above terms.

vii) The parties to act upon an authenticated copy of this order.

JUDGE